

§ 457.320 Other eligibility standards.

(a) *Eligibility standards.* To the extent consistent with title XXI of the Act and except as provided in paragraph (b) of this section, the State plan may adopt eligibility standards for one or more groups of children related to—

(1) Geographic area(s) served by the plan;

(2) Age (up to, but not including, age 19);

(3) Income;

(4) Spenddowns;

(5) Residency, in accordance with paragraph (d) of this section;

(6) Disability status, provided that such standards do not restrict eligibility;

(7) Access to, or coverage under, other health coverage; and

(8) Duration of eligibility, in accordance with paragraph (e) of this section.

(b) *Prohibited eligibility standards.* In establishing eligibility standards and methodologies, a State may *not*—

(1) Cover children with a higher household income without covering children with a lower household income within any defined group of covered targeted low-income children;

(2) Deny eligibility based on a pre-existing medical condition;

(3) Discriminate on the basis of diagnosis;

(4) Require any family member who is not requesting services to provide a social security number (including those family members whose income or resources might be used in making the child's eligibility determination);

(5) Exclude American Indian or Alaska Native children based on eligibility for, or access to, medical care funded by the Indian Health Service;

(6) Exclude individuals based on citizenship or nationality, to the extent that the children are U.S. citizens, U.S. nationals or qualified aliens, (as defined at section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, as amended by the BBA of 1997, except to the extent that section 403 of PRWORA precludes them from receiving Federal means-tested public benefits); or

(7) Violate any other Federal laws or regulations pertaining to eligibility for

a separate child health program under title XXI.

(c) *Self-declaration of citizenship.* In establishing eligibility for coverage under a separate child health plan, a State may accept self-declaration of citizenship (including nationals of the U.S.), provided that the State has implemented effective, fair, and non-discriminatory procedures for ensuring the integrity of its application process.

(d) *Residency.* (1) Residency for a non-institutionalized child who is not a ward of the State must be determined in accordance with § 435.403(i) of this chapter.

(2) Residency for a targeted low-income pregnant woman defined at 2112 of the Act must be determined in accordance with § 435.403(h) of this chapter.

(3) A State may not—

(i) Impose a durational residency requirement;

(ii) Preclude the following individuals from declaring residence in a State—

(A) An institutionalized child who is not a ward of a State, if the State is the State of residence of the child's custodial parent or caretaker at the time of placement; or

(B) A child who is a ward of a State, regardless of where the child lives

(4) In cases of disputed residency, the State must follow the process described in § 435.403(m) of this chapter.

(e) *Duration of eligibility.* (1) The State may not impose a lifetime cap or other time limit on the eligibility of an individual applicant or enrollee, based on the length of time such applicant or enrollee has received benefits under the State's separate child health program.

(2) [Reserved]

[66 FR 2675, Jan. 11, 2001, as amended at 66 FR 33823, June 25, 2001, 77 FR 17214, Mar. 23, 2012]

§ 457.330 Application.

The State shall use the single, streamlined application used by the State in accordance with paragraph (b) of § 435.907 of this chapter, and otherwise comply with such section, except that the terms of § 435.907(c) of this chapter (relating to applicants seeking